

higher court, hence Judge Bee could have had no hand in the affair, as I have yet to learn that he ever acted as Judge of the Police Court. I believe that Judge H.

dissatisfaction arising from that trial, he would most

in the list of instruments to be stamped, and required it necessary for them to be recorded, else they do they provide that the Registrar of conveyances shall keep the record of conveyances and pledges of real property distinct from those of personal property. If this was not their intention, and intention, and we think that it shall be, they would have provided any conveyance, unless it shall have been previously stamped, and almost in the same breath require that all "pledges of chattel property," and "all conveyances of real and personal property, made and executed anterior to the passage of this act, and all pledges of property real or personal, executed anterior to the passage of this act; the conditions of which have not been fulfilled when this act is promulgated, shall be recorded in the office of the Registrar of conveyances, at the instance and expense of the grantor of the mortgage." (1. Vol. 2, in the notes, p. 246-8.)

Now, one thinks, can fairly read this registry law, without discovering that it was the plain intention of the Legislature that mortgages of personal as well as of real property should be stamped and recorded, and that intention clearly discovered must control the clerical omission made in the stamp act.

This brings us to the final exception, namely, that the judge erred in ruling that the defendants Field and Goodale must show that the property they purchased from Ruggles and Thurston is not the property of Hardy, on the ground that Field and Goodale were not privy in the mortgage. It may be supposed that what property, if any, was covered by it; and that the mortgagors and mortgagee are the only persons who can know what portion of the stock in trade of Ruggles and Thurston, is old stock and covered by the mortgage.

There can be no doubt that as a general rule mortgages claiming property as against a purchaser from, or creditor of, the mortgagor must identify the property as being covered by his mortgage; but this, like most other rules has its exceptions, and there may be such circumstance in the case as to, shift the "onus" from his to other shoulders. Hardly sold Ruggles and Thurston his stock of drugs &c. for a certain sum, to secure the payment of the mortgage with other drugs, as they were sold, and all in-going stock; and subsequently Ruggles and Thurston assigned the balance of their stock on hand, composed of old and new, to Field and Goodale to pay certain debts. We have decided that so far as the new stock is concerned, Hardy's claim is not good, and it now becomes necessary to separate the old from the new, and the question arises, upon whom does this duty devolve? The court below has held that it rests upon Field and Goodale, the holders of the goods, and we think that, under the peculiar circumstances of the case, the decision is right. The mortgagors, Ruggles and Thurston, have mixed up the mortgage's goods with other drugs, so that it may be very difficult for him to recognize them, while it ought to be an easy task for Ruggles and Thurston to do so; and the question arises upon whom does the "onus" rest, to call them in for this purpose? We think it rests upon Field and Goodale, for these conveyances shew Ruggles and Thurston to be friendly to them, and at the same time hostile to Hardy. The whole transaction in the part of Ruggles and Thurston, wears the appearance of bad faith, and the purchasers must have a portion of the goods as new stock, must show what portion are over-ruled.

The exceptions are over-ruled.

Hookii et. als rs. C. H. Nicholson.

Justice Robinson, delivered the decision of the Court, as follows, viz.:

This is a complaint by Hookii and a number of others, workmen in the employment of the defendant, who is a merchant-tailor in Honolulu, the case comes before us on appeal from the Police Justice of Honolulu, before whom the plaintiffs made their complaint, before whom the plaintiffs made their complaint, and the obligations of the defendant, under section 28th of the "Act for the government of masters and servants," passed in the year 1850. The Police Justice, after hearing the case, gave judgment in favor of the plaintiffs, and from that decision the defendant appealed.

For a careful consideration of all the evidence adduced before us, we are clearly of the opinion, that the plaintiffs have entirely failed to substantiate the charge of misusage or ill-treatment made against the defendant. The only evidence given which we think tends in any degree to sustain such a charge, is that in the evidence of Hookii, who on one occasion, of the case, he claimed at the time to the Police Justice, who heard and disposed of the matter.

It is contended, however, on the part of the plaintiffs, that most, if not all of them, were at the time they entered into the contract with the defendant, married women, and that therefore their contracts are void, unless made with the express consent of their husbands, given in writing. There is no question as to the general principle of law, that the husband is exclusively entitled to the society and service of the wife, and that no contract made with the wife in contravention of affecting the rights of the husband is valid without his consent.

But we are of opinion that, in such a case as the one now before us, the husband's consent need not, necessarily, be signified in writing, neither is it indispensable, we think, that his consent should have been given at the time the contract was made, for if he has subsequently approved and enjoyed the benefit of the contract, this will be sufficient. Further, a contract made by a wife, whereby she engages to perform service for another, is not *per se* void, but may subsist, at least, until the husband shall interfere and put an end to it.

The question as to whether or not the husbands of those plaintiffs, who entered into the contract, were at the time of entering into the contract, supposing them to have subsequently consented to enjoy the benefit of the contract, can, we come forward and put an end to it, does not arise as yet, because this is not a suit brought by the husbands, but by the wives who cannot be permitted so to avoid the contracts they have made, and thus take advantage of their own wrong, to the prejudice and damage of the defendant.

It appears by the testimony before us that two of the plaintiffs, viz.: Malaea and Hookii were not married at the time of contracting, but the latter has been married since, and it is now argued that it was necessary to obtain her husband's consent to the existence of the contract after the date of the marriage, unless it has been proved that he had full knowledge of the plaintiff's previous agreement to work for the defendant, as the cause of the marriage. In regard to this point we consider the circumstances of the case, as sufficient to establish the absence of any proof of express objection on the part of the husband, to raise an irresistible inference that when he married the plaintiff, he must have been aware of her agreement to serve the defendant. It seems altogether incredible that she should have married her, without the slightest inquiry into her circumstances, and position in life.

The evidence of the plaintiffs, accompanied them to the defendant's place of business, were present when they agreed to work for him, and gave their consent, either verbally or in writing; while others are shown to have tacitly acquiesced in their wives' engagements, and to have received a portion of their earnings from time to time, and there is no proof that the husband of any of the plaintiffs, save one, viz., anika, ever attempted to put an end to his wife's contract with the defendant. It is also in proof that several of the plaintiffs have been separated, and living apart from their husbands, for longer or shorter periods, and, clearly, in their case, the fact that they were separated, is not a bar to their service of the defendant, cannot affect in any degree, the rights of their husbands.

But, the greatest source of dissatisfaction, and the one which doubtless led to the promotion of this complaint, appears to be the introduction of a sewing machine into the defendant's workshop, subsequently to the date at which most of the plaintiffs were hired by him. It is contended on their part, that the interference of this new power, was not contemplated at the time they were contracted, and cannot now be allowed to work to the detriment of the great body of the workmen, who are not at liberty, by the introduction of the machine, to violate any part of all agreement with the plaintiffs, by monopolizing all the work to be

court, hence Judge Lee could have had no had  
 as Judge of the Police Court. I believe that Judge Har-  
 of that bench at the time, so if Elder Lewis had any  
 satisfaction arising from that trial, he would not  
 have pronounced his anathemas upon the latter  
 tleman — if he had any to pronounce. This finishes  
 remarks upon the statements of "the writer whose  
 appears to be (a) provokingly tenuous."  
 "I have no more to say," however. I believe that Judge Har-  
 is wonderful that so many remain (among the lat-  
 Day Saints) to swell the triumphs of those who lead  
 in captivity," that false accusations, slander and al-  
 epithets, such as have recently been applied to them  
 this city, both from the pulpit and the press, will  
 or make that number smaller.

JOHN F. CAINE.

Honolulu, June 5th, 1856.

MONDAY, 31st May, 1856.

Sir: We might take the liberty of observing that it  
 is always been considered unfair to admit from a man  
 an answer to a letter bearing a *bona fide* signa-  
 ; but we shall nevertheless pick up the challenge  
 of our friend "Fair Play."

It is not a strange thing that a sentence so easily un-  
 stood, even by those who profess, but the slightest  
 sions of French, should here become a subject of con-  
 versary, by the imagination of a political sphinx who  
 aims the monopoly of riddles.

The Aulic counsellor, Count Von Feilberg, used to  
 of many petty diplomatists are like quacks, nobody  
 themselves to be known the ingredients his com-  
 positions are made of; common sense, of course, never  
 enters into them."

Now for Mr. "Fair Play." We do not remember  
 ever translated the passage alluded to in any  
 or way than the one published in our letter of the  
 1st inst. Our memory is so stubborn on this subject,  
 we must produce his promised document to convince  
 us of having ever adopted the opinion of Mr. Perrin.

This will be a rather hard task for you "Fair Play,"  
*et qui dict incumit probat.* He has concocted  
 puzzle in which he fell, and so long as he will  
 it in it we shall remain in the painful situation of  
 dealing with such an eminent statesman as our French  
 minister. We have the honor, &c.,

D. FRICK, L.L. D.

KAWAHAE, May 28th 1856.

C. G. HOPKINS, Esq.,  
*Editor of the Polygraph.*

SIR: I write to inform you of the loss of the  
 "Honolulu," which went on shore or on the reef  
 Kawahae on the 24th inst. at 2 o'clock P.M. The cause  
 or carelessness, or otherwise ignorance. She was  
 being towed along the sea breeze blowing in, with  
 rope of chain, and that vessel was the chief  
 defect; natives undertook to make sail which they per-  
 formed; they then undertook to stay her under  
 and mainsail: she mis-stayed and they run her on  
 with one good chain and anchor on the bow. I  
 at a fortunate occurrence, as she was not seaworthy,  
 having sheathing of plank on some parts of her  
 bottom. Her masts being close and secured by  
 about some time; had she continued to run seas  
 longer, she probably would have sunk with all on board,  
 had a large quantity of iron ballast in her hold,  
 is lying on the reef full of water, but no signs of  
 breaking up.

Respectfully Yours,  
 JAMES A. LAW,  
 Collector at Kawahae.

The Pacific.

The following is a correct list of the passengers  
 the Pacific. About the only hope remaining  
 the safety of the noble ship is, that she got dis-  
 and made for the Azores. An arrival from  
 so islands is not expected at Boston till about  
 1st of April.

Figuerias,  
 Wilson,  
 C. Sheldon,  
 Lieden,  
 W. Atwater,  
 McDougal,  
 Raucher and lady,  
 N. Cutter,  
 K. Haight,  
 Getz,  
 Steere,  
 Mr. Barbour, lady and child,  
 Duttil,  
 Whitaker,  
 Erring and lady,  
 Doriquao,  
 Wilson,  
 Moore,  
 Grand Smith,  
 Jordan,  
 Augustus Erving Esq., is United States Secretary  
 to St. Petersburg, and belongs to  
 lifornia, Conn. He is accompanied by his wife.  
 Mr. A. K. Carter was in England as the agent  
 of Woodworth's planing and spoke-making ma-  
 chines, Newark, N. J.

Grand Smith is well known as a theatrical  
 musical agent, and had gone to England to  
 organize a company of actors for Mr. Marshall, the  
 owner of the Broadway Theatre.

Mr. Wilson is the agent of the Perry Arms Com-  
 pany, of Newmark, N. J.

Mr. Erving is one of the firm of Howland &  
 King, owners of one of our lines of Liverpool  
 packets.

Mr. R. K. Haight, the proprietor of the St.  
 Nicholas Hotel, is also among the passengers.

Mr. H. Duttil is a brother of the well known  
 porter, of South William street, and is a native  
 France.

Mr. Barbour and family are citizens of Chicago,  
 were returning to their home from a visit to  
 their friends in England.

The insurance of the Pacific is very large, the  
 amount on the ship is \$900,000, half in the Uni-  
 States and half in Europe; the freight money is  
 insured for \$40,000. Her cargo consisted of six  
 seven hundred and thirty tons, valued at \$1,500,000.  
 of this was insured. The total insurance  
 amounts to over \$2,000,000.

Proportions of the Human Figure.

There is a small piece of artistic antiquarianism  
 curious as it is original. It is the proportions  
 of the human figure, handed down to us by Vir-  
 tuius, in the third book of his Treatise on Architec-  
 ture. From some obscurity in that writer's text,  
 from the poor illustrations that accompany the  
 editions, this Canon has hitherto been disre-  
 spected. In the library of the Academy of Venice,  
 however, there has been discovered a drawing by  
 Leonardo da Vinci, and a translation of Vitruvius's  
 Canon in Italian, so lucid and so intelligible,  
 that it is probable the Italian artist must have pos-  
 sessed a more perfect copy of this author than now  
 exists. The importance of this new rendering is  
 that it probably hands down to us the great Canon  
 of Polykletus, as it agrees with the best Greek  
 statues, and is understood by comparison with the  
 succeeding Canons used by the Egyptians.  
 It is found to be construed on purely geometric  
 lines, though the beauty of his body and the har-  
 mony of his parts are now forever, we suppose,  
 lost by the labors of the tailor. A great mir-  
 acle is a house that widens and widens without any  
 construction; and widens and still preserves its  
 proportion; that widens and preserves its  
 original proportions. The original text is too  
 obscure to escape quotation.

Nature, in the composition of the human text,  
 so ordained that the face, from the chin to the  
 highest point of the forehead, whence the hair be-  
 gins, is the tenth part of the whole stature; and the  
 proportion obtained in the head, measured from  
 the wrist to the extremity of the middle finger,  
 is eight. From the top of the chest to highest  
 point of the forehead is a seventh. From the nip-  
 ple to the top of the scalp is the fourth of the stat-  
 ure.

If the length of the face, from the chin to the  
 roots of the hair, be divided into three equal  
 parts, the division determines the place of the  
 eyebrows; and the second the place where the eye  
 meets. The foot is the seventh part of the  
 height of the entire figure; the cubit and the chest  
 each a fourth. The other members have cer-  
 tain proportions, which were always observed by  
 the celebrated ancient painters and sculptors,  
 and we must look for them in those productions  
 which have excited universal admiration. The na-  
 ture is naturally the central point of the human body;  
 if a man should lie on his back with his arms  
 extended, the periphery of his circle  
 which may be described about him, with the axel  
 of his center, would touch the extremities of his  
 arms and feet. The artist obtains if he